

REMARKS

Claims 1-43 are pending in this application. Attached hereto is a complete listing of all claims in the application, with their current status listed parenthetically. By this Response, claims 1 and 8 have been amended, and are presented with markings to indicate their current amendments. Claim 2 has been cancelled, and claims 42-43 have been withdrawn as non-elected claims, without prejudice to later prosecution.

Restriction Requirement

Applicant acknowledges with appreciation the courtesies extended by the Examiner to Applicant's representative in the telephone conversation of February 1, 2004. During this conversation the Examiner requested an election between Group I (claims 1-41), and Group II (claims 42-43). Applicant's representative provisionally elected, with traverse, to prosecute the invention of Group I claims.

By this Response, Applicant affirmatively elects Group I (claims 1-41) to be examined. Accordingly, Applicant withdraws claims 42-43 without prejudice as non-elected claims.

However, Applicant expressly reserves his right under 35 U.S.C. § 121 to file one or more divisional or continuation applications directed to the non-elected subject matter during the pendency of this application, or an application claiming the benefit of this application under 35 U.S.C. § 120.

Applicant respectfully requests that the Examiner reconsider and withdraw the restriction requirement between the inventions of Groups I and II. There are two criteria for a proper restriction requirement, namely: 1) the inventions must be independent or distinct; and 2) there must be a serious burden on the Examiner if restriction is not required. Under M.P.E.P. § 808, the Examiner must examine the subject application on the merits even though it includes claims

DRAWINGS

Applicant submits amended FIG. 1, which now includes a "Prior Art" legend. A second figure sheet indicates the addition in red ink.

to distinct inventions, if the search and examination of the application can be made without serious burden. Applicant submits that a search of the art for references related to the subject matter of the claims of Group I may likely uncover references related to the subject matter of Group II, and therefore the Examiner will not be seriously burdened.

In the Drawings

In paragraph 5 of the Office Action, the Examiner objects to FIG. 1 because it should be labeled PRIOR ART. In response, Applicant has so amended FIG. 1, and submits an amended drawing sheet showing the added text in red. Applicant respectfully requests that the Examiner approve these drawing amendments to facilitate the allowance of this application. Applicant also submits a substitute formal drawing sheet for FIG. 1, which contains the PRIOR ART legend.

Rejection Under 35 U.S.C. § 112, 2nd paragraph

In paragraphs 6-9 of the Office Action, the Examiner rejects claims 8-9 as being indefinite because certain claim elements lack antecedent basis. Applicant has amended claim 8 to provide proper antecedent basis. However, Applicant has not amended claim 9, at all of the elements in the claim appear to have proper antecedent basis. Accordingly the rejection is traversed.

The above-described claim amendments have been drafted in response to the indefiniteness rejection, to impart precision into the claims by more particularly pointing out the invention. The claim amendments have not been drafted to overcome any prior art.

1st Rejection Under 35 U.S.C. § 102(e)

Pending claims 1-4, 8, 14-21, 24, 30-38 and 40 stand rejected under 35 U.S.C. §102(e) as being anticipated by published U.S. patent application 2004/0109506 ("Hinton"). As discussed below, Applicant respectfully traverses this rejection.

Applicant respectfully traverses this rejection because the Hinton reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Specifically, the Hinton reference indicates a file date of November 4, 2003. Applicant's application was filed July 31, 2003. Applicant's file date is prior to the Hinton file date.

However, Hinton claims priority to, and incorporates by reference, two provisional applications, serial numbers 60/423,697 and 60/423,709, both filed on November 4, 2002,

"Before answering Graham's 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. § 102" (M.P.E.P. 2141.01).

"[T]he subject matter of an abandoned application, including both provisional and nonprovisional applications, referred to in a prior art U.S. patent may be relied on in a 35 U.S.C. § 102(e) rejection based on that patent if the disclosure of the abandoned application is actually included or incorporated by reference in the patent" (M.P.E.P. 2127).

Thus, Hinton's filing date of November 4, 2003 eliminates it as a 35 U.S.C. § 102(e) reference. But, the subject matter of the November 4, 2002, provisional applications may support a 35 U.S.C. § 102(e) rejection if the subject matter can actually support a 35 U.S.C. § 102(e) rejection.

Therefore, Hinton is not prior art, and Applicant respectfully requests a copy of the November 4, 2002 provisional applications, so that Applicant may determine if any of their teachings may be used as prior art. Moreover, Applicant requests Hinton's prosecution history,

to determine if any portion of the November 4, 2002, provisional applications were cancelled. "Portions of the patent application which were cancelled are not part of the patent or application publication and thus cannot be relied on in a 35 U.S.C. § 102(e) rejection over the issued patent or application publication" (M.P.E.P. 2136.02).

2nd Rejection Under 35 U.S.C. § 102(e)

Pending claims 1-3, 9, 20 and 25 stand rejected under 35 U.S.C. §102(e) as being anticipated by published U.S. patent application 2003/0227980 ("Batra"). As discussed below, Applicant respectfully traverses this rejection.

A. The Law of Anticipation and Enabling Prior Art References

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. M.P.E.P. § 2131. The identical invention must be shown in as complete detail as is contained in the claim. *Id.*

However, Applicant submits that amended independent claim 1 has elements that cannot be found, either expressly or inherently, in Batra.

For example, amended claim 1 now recites, in part, "a first set of resistive elements connected to the current sources, and to the switching elements, the resistive elements also connected to a second voltage level."

Batra has no teaching or suggestion of "a first set of resistive elements connected to the current sources, and to the switching elements, the resistive elements also connected to a second voltage level."

Instead, Batra teaches a single resistive element connected only to a current source and to switching elements, as shown in FIG. 6a. Batra does not teach a set of resistive elements that are also connected to a second voltage level, as recited in Applicant's amended claim 1.

Regarding independent claim 20, it recites, in part, "a switch connected to the first set of switching elements, the switch structured to receive a signal from the control unit."

Batra has no teaching or suggestion of this claim element. FIG. 6a of Batra only teaches a group of switching elements in each circuit, but does not teach another switch connected to them.

Accordingly, Applicant respectfully submits that Batra cannot anticipate originally-filed claim 20 and amended claim 1.

Applicant respectfully submits that the above-described amendments and the discussion has traversed the rejection of independent claims 1 and 20. Claims 2-3 and 9 depend from claim 1, and accordingly it is respectfully submitted that the rejection of claims 2-3 and 9 has been traversed by virtue of their dependency from claim 1. Similarly, claim 25 depends from claim 20, and accordingly it is respectfully submitted that the rejection of claim 25 has been traversed by virtue of its dependency from claim 20. M.P.E.P. § 2143.03.

Rejection Under 35 U.S.C. § 103(a)

In paragraphs 13-18 of the Office Action, claims 5-7, 10-13, 21-23, 26-29, 39 and 41 stand rejected as unpatentable under 35 U.S.C. § 103(a) over: Hinton and U.S. patent 6,735,238 (claims 5, 21, 41); or Hinton and U.S. patent 6,614,284 (claims 6-7, 22-23 and 28); or Hinton and published U.S. patent application 2003/0048212 (claims 10-12 and 26-27); or Hinton and U.S. patent 6,522,210 (claims 13 and 29); or Hinton and U.S. patent 6,653,993 (claim 39). As discussed below, Applicant respectfully traverses this rejection.

As discussed above, the Hinton reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Moreover, because claims 5-7, 10-13, 21-23, 26-29, 39 and 41 depend from one of independent claims 1, 20 or 36, it is respectfully submitted that the

rejection of claims 5-7, 10-13, 21-23, 26-29, 39 and 41 have been traversed by virtue of their dependency from one of independent claims 1, 20 or 36 M.P.E.P. § 2143.03.

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, favorable reconsideration and allowance of claims 1-41 at an early date is solicited. No fee is believed due with this response. However, the Commissioner is authorized to charge any fee required to our Deposit Account No. 50-3143, in the name of Pulse-Link, Inc. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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Date

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Replacement Sheet

Serial No.: 10/633,607
FIGS. 1 & 2

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Sheet 1 of 1

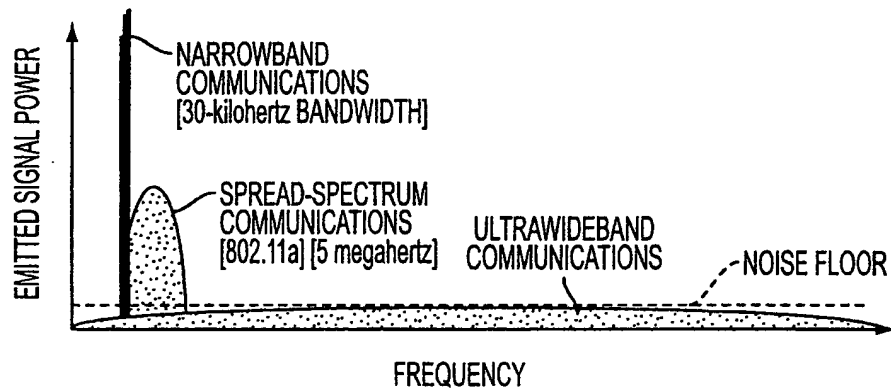


FIG. 1

PRIOR ART

ADDED TEXT

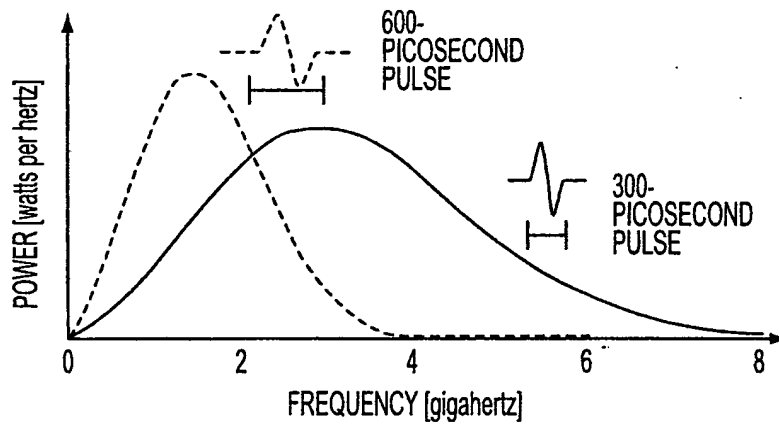


FIG. 2